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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,666	01/28/2004	Lisa M. Fitzgerald	SMITH004	9824
7590	04/05/2005		EXAMINER	
Richard L. Moseley P.O. Box 630708 Houston, TX 77263			RODRIGUEZ, CRIS LOIREN	
			ART UNIT	PAPER NUMBER
			3763	

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,666

Applicant(s)

FITZGERALD, LISA M.

Examiner

Cris L. Rodriguez

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2, 6, 8 and 10 is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 7, 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/23/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3-5, 7, and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 3, there is no antecedent basis for "said catheter carrier".
- Claim 4, there is no antecedent basis for "said protective sheath".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Haining (US 5,176,650).

Haining discloses a catheter device 10 having a catheter 20, and a needle retractable within the device and stowed there after insertion of the catheter leaving the catheter in place.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Daugherty (US 5,462,533).

Art Unit: 3763

Daugherty discloses a catheter device (fig. 2-3) having a catheter 24, and a needle 14 retractable within the device and stowed there after insertion of the catheter leaving the catheter in place.

Allowable Subject Matter

6. Claims 2, 6, 8, and 10 are allowable over the prior art of record.
7. Claims 3-5, 7, and 9 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
8. The following is a statement of reasons for the indication of allowable subject matter: the art of record does not teach or render obvious a catheter device having a fluid flow path through the device that bypasses the needle when retracted to the catheter when exposed in combination with the elements set forth in claim 2; an IV fluid flow path through the port body, wherein the needle carrier blocks the fluid flow through the catheter carrier and the catheter when the catheter is mounted on the needle carrier and open when the catheter carrier is released from the needle carrier in combination with the elements set forth in claim 10.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO Form-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cris L. Rodriguez whose telephone number is 571-272-4964. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 31, 2005



Cris L. Rodriguez
Examiner
Art Unit 3763